

MAR 13 1998

CLERK

(16)
No. 97-634

In the Supreme Court
of the
United States

OCTOBER TERM, 1997

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF CORRECTIONS, et al.,
Petitioners,

v.

RONALD R. YESKEY,
Respondent.

*On A Writ Of Certiorari
To The United States
Court Of Appeals For The Third Circuit*

**OPPOSITION TO MOTION FOR LEAVE
TO FILE A BRIEF AMICUS CURIAE**

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**OPPOSITION TO MOTION FOR LEAVE
TO FILE A BRIEF AMICUS CURIAE**

The Pennsylvania House of Representatives, Republican Caucus ("Caucus") has petitioned this Court for leave to file a brief of *amicus curiae* in support of Petitioners. Respondent hereby opposes that motion on the following grounds:

(1) The Caucus did not serve its Motion or Brief on Respondent's Counsel of Record, Donald Specter, as required by the Rules of this Court. Nor did the Caucus seek Respondent's consent (Mot. at i), or notify Respondent that it sought to file such a brief. Apparently the Caucus sent its Motion and Brief to Respondent's counsel in the court below, who forwarded it to Respondent's Counsel of Record. Respondent's Counsel of Record did not receive the Motion or Brief until March 12, 1998—over a week late.

(2) The Caucus' Brief raises broad constitutional issues that were not raised in the Court below, nor by Petitioners before this Court. Indeed, *Petitioner* (on whose behalf the *amicus* is purportedly filed) "declined to concur in the filing of [the Caucus's] brief because the Caucus argues a broader constitutional principle than the Department now wishes to espouse." Mot. at i.

(3) Respondent's Brief is due in approximately two weeks, on March 30, 1998. Respondent does not have sufficient time to research and respond to the Caucus' broad constitutional arguments in that short time period.

For the foregoing reasons, Respondent respectfully requests that the Caucus' Motion For Leave To File A Brief Amicus Curiae be denied.

DATED: March 12, 1998.

Respectfully,

DONALD SPECTER
Counsel of Record
PRISON LAW OFFICE

I, Geraldine Francisco-Ferrer declare:

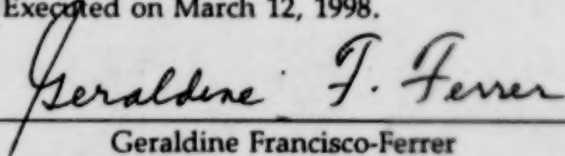
I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen (18) and not a party to the within action; my business address is Howard, Rice, Nemerovski, Canady, Falk & Rabkin, A Professional Corporation, Three Embarcadero Center, 7th Floor, San Francisco, California 94111.

On March 12, 1998, I served three copies of Opposition to Motion for Leave to File a Brief Amicus Curiae on all parties required to be served, as listed below, by depositing the documents with the United States Postal Service, first-class postage fully prepaid, addressed as follows:

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 12, 1998.



Geraldine Francisco-Ferrer